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April 11, 2022

BY ECF

The Honorable Victor Marrero
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Dov Malnik, (Case No. 19-CR-714)*

Dear Judge Marrero:

I represent Dov Malnik in connection with the above captioned matter. Mr. Malnik requests that Your Honor issue an Amended Judgment in this case, pursuant to Fed. R. Crim. P. 36, to clarify that the Court sentenced Mr. Malnik to a term of 30 months' imprisonment with a *credit* for the eight months Mr. Malnik served in Swiss prison prior to his extradition to the United States.

As Your Honor is aware, Mr. Malnik pled guilty to one count of securities fraud on June 25, 2021. On November 19, 2021, the Court sentenced Mr. Malnik to 30 months' imprisonment. (*See* Dkt. 33 at 20:16-19 ("In considering all of the factors listed in 18 U.S.C. § 3553(a), the Court finds that a sentence of 30 months' imprisonment is reasonable and appropriate. . . ."). The Court made clear at sentencing that it intended to "*credit*" the eight months Mr. Malnik served in Swiss prison prior to his extradition to the United States toward his sentence. (*Id.* at 20:24-25 ("the Court will credit those eight months to the 30-month sentence"); *cf.* 18 U.S.C. § 3585 ("A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences . . . as a result of the offense for which the sentence was imposed. . . .").

On November 23, 2021, the Court issued its Judgment, which stated that: "The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 30 months. The 30-month sentence is being *reduced* by eight months to 22 months in BOP custody to account for the time the defendant spent incarcerated abroad in connection with the offense for which he was sentenced in this case." (Dkt. 32 at 2 (emphasis added)).

On April 6, 2022, Mr. Malnik was informed that BOP's Designation & Sentence Computation Center ("DSCC") in Grand Prairie, Texas has interpreted the Court's Judgment as a sentence of 22 months' imprisonment—as opposed to 30 months' imprisonment with a credit for eight months of time served—for computation of Mr. Malnik's sentence, due to the use of the word "reduced" as opposed to

“credit” in the Judgment. This has an impact on, among other things, the computation of Mr. Malnik’s good time credit under 18 U.S.C. § 3624.

Accordingly, we request that Your Honor issue an Amended Judgment clarifying that the Court sentenced Mr. Malnik to a term of 30 months’ imprisonment with a *credit* for the eight Mr. Malnik served in Swiss prison prior to his extradition to the United States. The Government has no objection to this request. Thank you for your consideration.

Respectfully submitted,

/s/ Michael S. Schachter

Michael S. Schachter

cc: (via ECF)
Richard Allen Cooper
Daniel Marc Tracer
(U.S. Department of Justice)